



MILLENNIUM CHALLENGE ACCOUNT NEPAL DEVELOPMENT BOARD (MCA-NEPAL)

MILLENNIUM CHALLENGE ACCOUNT NEPAL (“MCA-Nepal”)

Synopsis of Minutes of 27th Meeting of the Board of Directors of Millennium Challenge Account Nepal (MCA-Nepal)

Nature: Regular Meeting

MCA-N/BOD-M-27/28-04-2022

Date: 28 April, 2022 (2079/01/15 BS)
Time: 4:00 PM
Place: Conference Room of the Secretary, Ministry of Finance at Singh Durbar,
Kathmandu
Notice Served: 22/04/2022 (09/01/2079 BS)

1. PRESENT

1.1. Members

- **Madhu Kumar Marasini**, Chairperson
And, Secretary, Government of Nepal, Ministry of Finance
- **Keshab Kumar Sharma**, Member
And, Joint Secretary, Ministry of Physical Infrastructure and Transport
- **Mr. Kul Man Ghising**, Member
And, Managing Director, Nepal Electricity Authority
- **Kumar Pandey**, Member representing the Private Sector
And, Chairman of the Board, National Hydro Power Company (NHPC)
- **Gopal Khanal**, Member representing the Civil Society
And, journalist
- **Khadga Bahadur Bisht**, Member Secretary
And, Executive Director, MCA-Nepal

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1.2. Invitees

- **Ishwori Prasad Aryal**, Invitee
And, Joint Secretary, Government of Nepal, Ministry of Finance, International Economic Cooperation and Coordination Division (IECCD)
- **Megh Nath Kafle**, Invitee
Joint Secretary, Government of Nepal, Ministry of Forests and Environment, Forest and Watershed Division
- **Jonathan Brooks**, Invitee observer
Deputy Vice President of Europe, Asia, Pacific, and Latin America, Millennium Challenge Corporation, Washington DC
- **Jonathan Richart**, Invitee observer
Deputy Vice President, Infrastructure, Environment and Private Sector, Millennium Challenge Corporation, Washington DC
- **Amanda Jennings**, Invitee observer
Managing Director, Portfolio Administration, Millennium Challenge Corporation, Washington DC
- **Sanjay Poudyal**, Invitee
Resident Country Director (Acting) – Nepal, Millennium Challenge Corporation

1.3. Others Attending

- **Rajib Dahal**
Chief Legal Officer, Millennium Challenge Account Nepal
- **Satyam Pathak**
Legal Advisor, Millennium Challenge Account Nepal

2. PRELIMINARY

- 2.1. The meeting of the Board of Directors was duly constituted on 28 April, 2022 (2079/01/15 BS) after the notice was served in writing on 22 April, 2022 (09/01/2079 BS)

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- 2.2. The Chairperson welcomed all the members of the Board of Directors and other invitees attending the meeting.
 - 2.3. The Chairperson reported that a quorum was present in accordance with Millennium Challenge Account Nepal Development Board Formation Order, 2074 (2018). The Chairperson apprised the board members on the latest situation at MCA – Nepal.
 - 2.4. The Chairperson thanked MCC visiting team for MCC’s support to Nepal Compact. The Members of the Board expressed their commitment to provide their support in achieving early Entry into Force (EIF) and completion of remaining preparatory activities.
 - 2.5. The Board Members declared that there is no Conflict of Interest (CoI) on any of the Agendas presented by MCA-Nepal, and all the members of the board attended the meeting.
 - 2.6. Mr. Khadga Bahadur Bisht, Executive Director, Millennium Challenge Account Nepal updated on current activities of MCA-Nepal and presented the agendas to MCA-Nepal Board of Directors.
- 3. UPDATE ABOUT CURRENT ACTIVITIES OF MILLENNIUM CHALLENGE ACCOUNT NEPAL**
- Mr. Khadga Bahadur Bisht, Executive Director appraised MCA-Nepal Board of Directors of the major activities undertaken by MCA-Nepal and of Condition Precedents (CP) fulfilled. The Executive Director also updated on the remaining CPs to be fulfilled under the Compact.
 - Mr. Khadga Bahadur Bisht, Executive Director presented the MCA-Nepal Board of Directors of the projected major procurements to be under taken by MCA-Nepal for year 2022- 2023.
 - Mr. Khadga Bahadur Bisht, Executive Director presented the MCA-Nepal Board of Directors the plan for Entry into Force. In addition, the Executive Director presented the tentative Project Timeline of the major activities to be undertaken by MCA-Nepal prior to Entry into Force of the Compact. The Board Member from Ministry of Physical Infrastructure and Transport requested the Executive Director to present tentative Timeline for Road Maintenance Project (RMP) in the next meeting of the Board.

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4. AGENDA ITEMS AND BOARD'S DECISIONS/RESOLUTIONS

4.1. The Chairperson requested the members to consider and, if thought fit, pass a resolution on the following matter:

(A) Agenda One: Amendment of Procurement Agent Agreement

(B) Agenda Two: Approval of Contract Amendment for Various Contract (TEP/BRP/SPA/BPA)

(C) Agenda Three: Amendment of Construction of Lab Building for Asphalt Laboratory and Falling Weight Deflectometer (FWD) Storage

(D) Agenda Four: Approval for Signing of Project Cooperation Agreement (PCA) with Roads Board Nepal (RBN)

(E) Agenda Five: Extension of Employment Agreement of Employees

(F) Agenda Six: Delegation of Authority to Executive Director to approve selection memorandum, and appointment of Band D Employees with necessary amendment on Employees Administration Bylaws

4.2. Agenda One: Amendment of Procurement Agent Agreement

4.2.1. The Procurement Agent Contract requires amendment for inclusion of OPEX (Operational Expenses) and extension of time (EOT) until EIF Date.

4.2.2. For MCA Small Value Items, there were two types - those covered by the Program Procurement Guidelines (PPG); and those not PPG covered (NPC). The Program Assistance & Acquisition (PAA) Practice Group at MCC has made some important changes in MCC's guidance for NPC Items purchases. MCC has decided to transfer the responsibility for most of these NPC purchases to the MCA procurement teams (i.e. under Procurement Agent (PA) responsibility). This amendment is thus required for making changes to Procurement Agent Contract for inclusion of OPEX.

4.2.3. The base period starts from the date of signing of the Contract by the parties until "Entry into Force" or EIF, an important milestone that starts the five-year period of the Nepal Compact. However, the first option period of the contract will be exercised when the EIF takes place.

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4.2.4. MCC Program Procurement Guidelines (PPG) P4.1.2 necessitates MCA Nepal Board approval for any modifications to material agreements as noted under the specific MCA Entity's Program Implementation Agreement (PIA). Procurement Agent Agreements is a Material Agreement.

4.2.5. The MCC Program Procurement Guidelines (PPG) P4.1.1 necessitates MCA Entity to ensure that all procurement actions described in PPG Attachment A for goods, works, consulting services, and non-consulting services (including information systems) shall be subject to the prior approval of MCA Nepal board of directors.

4.2.6. The Board of Directors RESOLVED THAT the Board of Directors approves the amendment of Procurement Agent (PA) Contract for inclusion of Operational Expenses (OPEX) items and extension of base period of the Procurement Agent (PA) Agreement. Any future extension of timeline would be subject to availability of funds and a separate Board decision is required for any future EOT.

4.3. Agenda Two: Approval of Contract Amendment for Various Contract (TEP/BRP/SPA/BPA)

4.3.1. There are multiple contracts for which the contract validity period has to be extended.

4.3.2. The MCC Program Procurement Guidelines (PPG) P4.1.1 necessitates MCA Entity to ensure that all procurement actions described in PPG Attachment A for goods, works, consulting services, and non-consulting services (including information systems) shall be subject to the prior approval of MCA Nepal board of directors.

4.3.3. The Board of Directors RESOLVED THAT the Board of Directors approves the extension of TEP/BRP/SPA Contracts to maintain the roster of TEP/BRP/SPA and extend the Hotel Blanket Purchase Agreements (BPA) contracts to avail services through task orders.

4.4. Agenda Three: Amendment of Construction of Lab Building for Asphalt Laboratory and Falling Weight Deflectometer (FWD) Storage

4.4.1. The contract amendment request is to accommodate a variation and time extension by 55 days on account of the Laboratory equipment installation. This contract amendment is associated with additional construction of Saw Cutting and Core Drilling Lab and EOT.

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4.4.2. The MCC Program Procurement Guidelines (PPG) P4.1.1 necessitates MCA Entity to ensure that all procurement actions described in PPG Attachment A for goods, works, consulting services, and non-consulting services (including information systems) shall be subject to the prior approval of MCA Nepal board of directors.

4.4.3. The Board of Directors RESOLVED THAT the Board of Directors approves the amendment of Construction of Lab Building for Asphalt Laboratory and a Falling Weight Deflectometer (FWD) Storage for.

4.5. Agenda Four : Approval for Signing of Project Cooperation Agreement (PCA) with Roads Board Nepal (RBN)

4.5.1. Section 4(d) of the Millennium Challenge Account Nepal Development Board (Formation) Order 2074 (2018) prescribes execution of Project Cooperation Agreement with Project Partners as one of the functions, duties and rights of the Board of Director of MCA-Nepal. Pursuant to paragraph C.2 of Annex I of the Compact, the achievement of project objectives requires assistance for which the Government may engage one or more of its Project Partners having relation to the Projects.

4.5.2. The required assistance and cooperation between MCA-Nepal and the Project Partner for implementing various aspects of the Projects is set out in the Project Cooperation Agreement presented to the Board.

4.5.3. The Board of Directors RESOLVED THAT the Board of Directors approves to sign the Project Cooperation Agreement with Road Board Nepal (RBN), and authorizes the Executive Director of MCA-Nepal to sign the Project Cooperation Agreement with RBN.

4.6. Agenda Five : Extension of Employment Agreement of Employees of MCA-Nepal

4.6.1. The MCA-Nepal Employment Agreement (EA) was initially signed for 2 (two) years for all of the employees except for Executive Director which was signed for 3 (three) years.

4.6.2. Taking into account the ratification of the Compact from Nepal's Parliament and recognizing the need of stable workforce for the successful implementation of the Compact program, MCA-Nepal Board of Directors approves to extend the period of Employment Agreement of all the Employees.

4.6.3. The Board of Directors approves to extend the period of Employment Agreement of Executive Director of MCA-Nepal.

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4.7. Agenda Six: Delegation of Authority to Executive Director to approve selection memorandum, and appointment Employees with necessary amendment on Employees Administration Bylaws

4.7.1. MCA Nepal has established an open, competitive, and non-discriminatory recruitment and selection process, and the appointment of each member of the Management Unit is subject to MCC no-objection as mentioned in the Compact Annex I -11.

4.7.2. MCA-Nepal presents an amendment to Employees Bylaws to reflect the changes. The changes are also based on 3 years' experience of the Management unit and need to expedite the recruitment process for smooth implementation of the Compact Program.

4.7.3. The Board of Directors approves the amendment of Employees Bylaws and instructs Executive Director to follow the amended Bylaws by adhering to the employee's organogram, and necessary qualifications for each band approved by the Board of Directors.

5. AGENDAS FOR DISCUSSION

5.1. Unregistered Land at Ratmate

5.1.1. The Executive Director informed the MCA-Nepal Board of Directors that four (4) Land Parcels at Ratmate does not have Land Ownership certificates, but have name registered in Field book of Survey office and the land is in use by the Project Affected Persons (PAPs) for long time. MCA-Nepal is required to acquire such land for sub-station Activities. This has been communicated to Ministry of Finance at earlier occasion.

5.1.2. MCA-Nepal Board of Directors requested Ministry of Finance and other concerned Ministries to facilitate in acquiring those unregistered lands through necessary administrative procedures. The compensation shall be made to the Project Affected Persons (PAPs) as per existing government guidelines.

5.2. Approval on Forest Clearance on the basis of approved EIA

5.2.1. The Board requested the concerned Board Invitee to take the issue with their respective Ministry and facilitate MCA-Nepal in carrying out the Forest Clearance activity in an expedited manner.

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5.3. Right of Way (RoW) Securing for TL Projects

5.3.1. Compensation for land in the right-of-way (RoW) is a major challenge in the construction of transmission lines. The Executive Director of MCA-Nepal requested concerned Board Members to take the issue with their respective Ministry and facilitate.

5.3.2. The Board requested the concerned Board Members to take the issue with their respective Ministry and facilitate to form a policy to the extent feasible.

6. RECORDING OF THE DISCUSSIONS AND DECISIONS

6.1. RESOLVED THAT the Board of Directors directs the Executive Director to record these minutes with the minute book of Millennium Challenge Account Nepal and to submit the synopsis of such minutes for publication on the website of Millennium Challenge Account Nepal within two (2) weeks from the date of these Minutes.

7. CLOSE

There being no further business the meeting was then closed at 5.30 PM.

This minute is prepared and signed on: 02/05/2022

Minutes Prepared by:

Rajib Dahal,
Chief Legal Officer